

108TH CONGRESS  
2D SESSION

# S. 2997

To amend section 1928 of the Social Security Act to encourage the production of influenza vaccines by eliminating the price cap applicable to the purchase of such vaccines under contracts entered into by the Secretary of Health and Human Services, to amend the Internal Revenue Code of 1986 to establish a tax credit to encourage vaccine production capacity, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2004

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend section 1928 of the Social Security Act to encourage the production of influenza vaccines by eliminating the price cap applicable to the purchase of such vaccines under contracts entered into by the Secretary of Health and Human Services, to amend the Internal Revenue Code of 1986 to establish a tax credit to encourage vaccine production capacity, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Flu Vaccine Incentive  
3 Act of 2004” or the “FLU-VIA”.

4 **SEC. 2. ELIMINATION OF PRICE CAP FOR THE PURCHASE**  
5 **OF INFLUENZA VACCINES.**

6 (a) IN GENERAL.—

7 (1) VACCINES FOR CHILDREN PROGRAM.—Sec-  
8 tion 1928(d)(3) of the Social Security Act (42  
9 U.S.C. 1396s(d)(3)) is amended—

10 (A) in subparagraph (B), by striking  
11 “With” and inserting “Except as provided in  
12 subparagraph (D), with”; and

13 (B) by adding at the end the following new  
14 subparagraph:

15 “(D) NONAPPLICATION TO INFLUENZA  
16 VACCINES.—With respect to contracts entered  
17 into for the purchase of a pediatric vaccine that  
18 is an influenza vaccine, and to the maximum  
19 extent practicable, with respect to any other  
20 contracts entered into by the Secretary for the  
21 purchase of an influenza vaccine, the price for  
22 the purchase of such vaccine shall be estab-  
23 lished without regard to subparagraph (B).”.

24 (2) EFFECTIVE DATE.—The amendments made  
25 by paragraph (1) shall apply to contracts entered  
26 into on or after the date of enactment of this Act.

1 (b) APPLICATION TO PURCHASES FOR OTHER FED-  
 2 ERAL PROGRAMS.—Section 1928(d)(3)(D) of the Social  
 3 Security Act (42 U.S.C. 1396s(d)(3)(D)), as amended by  
 4 subsection (a), shall apply with respect to the purchase  
 5 of an influenza vaccine by any Federal agency and in lieu  
 6 of the price that would otherwise apply to such a purchase  
 7 under the schedule for the purchase of drugs by the Vet-  
 8 erans Administration under section 8126 of title 38,  
 9 United States Code, under agreements negotiated by the  
 10 Secretary of Health and Human Services under section  
 11 340B of the Public Health Service Act (42 U.S.C. 256b),  
 12 or otherwise.

13 **SEC. 3. INCENTIVES FOR THE CONSTRUCTION OF INFLU-**  
 14 **ENZA VACCINE MANUFACTURING FACILITIES.**

15 (a) INFLUENZA VACCINE MANUFACTURING FACILI-  
 16 TIES INVESTMENT TAX CREDIT.—

17 (1) ALLOWANCE OF CREDIT.—Section 46 of the  
 18 Internal Revenue Code of 1986 (relating to amount  
 19 of investment credit) is amended by striking “and”  
 20 at the end of paragraph (1), by striking the period  
 21 at the end of paragraph (2) and inserting “, and”,  
 22 and by adding at the end the following new para-  
 23 graph:

24 “(3) the influenza vaccine manufacturing facili-  
 25 ties investment credit.”.

1           (2) AMOUNT OF CREDIT.—Section 48 of such  
 2       Code is amended by adding at the end the following  
 3       new subsection:

4       “(c) INFLUENZA VACCINE MANUFACTURING FACILI-  
 5       TIES INVESTMENT CREDIT.—

6           “(1) IN GENERAL.—For purposes of section 46,  
 7       the influenza vaccine manufacturing facilities invest-  
 8       ment credit for any taxable year is an amount equal  
 9       to 20 percent of the qualified investment for such  
 10      taxable year.

11          “(2) QUALIFIED INVESTMENT.—For purposes  
 12      of paragraph (1), the qualified investment for any  
 13      taxable year is the basis of each influenza vaccine  
 14      manufacturing facilities property placed in service by  
 15      the taxpayer during such taxable year.

16          “(3) INFLUENZA VACCINE MANUFACTURING FA-  
 17      CILITIES PROPERTY.—For purposes of this sub-  
 18      section, the term ‘influenza vaccine manufacturing  
 19      facilities property’ means real and tangible personal  
 20      property—

21               “(A)(i) the original use of which com-  
 22               mences with the taxpayer, or

23               “(ii) which is acquired through purchase  
 24               (as defined by section 179(d)(2)),

1 “(B) which is depreciable under section  
2 167,

3 “(C) which is used for the manufacture,  
4 distribution, or research and development of in-  
5 fluenza vaccines, and

6 “(D) which is in compliance with any  
7 standards and regulations which are promul-  
8 gated by the Food and Drug Administration,  
9 the Occupational Safety and Health Adminis-  
10 tration, or the Environmental Protection Agen-  
11 cy and which are applicable to such property.

12 “(4) CERTAIN PROGRESS EXPENDITURE RULES  
13 MADE APPLICABLE.—Rules similar to rules of sub-  
14 sections (c)(4) and (d) of section 46 (as in effect on  
15 the day before the date of the enactment of the Rev-  
16 enue Reconciliation Act of 1990) shall apply for pur-  
17 poses of this subsection.

18 “(5) TERMINATION.—This subsection shall not  
19 apply to any property placed in service after Decem-  
20 ber 31, 2014.”.

21 (b) TECHNICAL AMENDMENTS.—

22 (1) Subparagraph (C) of section 49(a)(1) of the  
23 Internal Revenue Code of 1986 is amended by strik-  
24 ing “and” at the end of clause (ii), by striking the  
25 period at the end of clause (iii) and inserting “,

1       and”, and by adding at the end the following new  
2       clause:

3                       “(iv) the basis of any influenza vac-  
4                       cine manufacturing facilities property.”.

5               (2) Subparagraph (E) of section 50(a)(2) of  
6       such Code is amended by inserting “or 48(c)(4)” be-  
7       fore the period.

8               (3)(A) The section heading for section 48 of  
9       such Code is amended to read as follows:

10   **“SEC. 48. OTHER CREDITS.”.**

11               (B) The table of sections for subpart E of part  
12       IV of subchapter A of chapter 1 of such Code is  
13       amended by striking the item relating to section 48  
14       and inserting the following:

      “Sec. 48. Other credits.”.

15       (c) **EFFECTIVE DATE.**—The amendments made by  
16       this section shall apply to property placed in service after  
17       December 31, 2004, under rules similar to the rules of  
18       section 48(m) of the Internal Revenue Code of 1986 (as  
19       in effect on the day before the date of enactment of the  
20       Revenue Reconciliation Act of 1990).

1 **SEC. 4. SENSE OF THE SENATE REGARDING THE IMPOR-**  
2 **TANCE OF DEVELOPING NEW TECHNOLOGIES**  
3 **FOR THE PRODUCTION OF INFLUENZA VAC-**  
4 **CINES.**

5 (a) FINDINGS.—The Senate makes the following  
6 findings:

7 (1) 30 years ago, more than a dozen companies  
8 produced the influenza vaccine in the United States.  
9 As of 2004, only 2 companies make the vaccine for  
10 the United States.

11 (2) Currently, the influenza vaccine is grown in  
12 eggs through a process that takes approximately 6  
13 months and consumes tens of thousands of eggs.

14 (3) Companies are developing new technologies  
15 for the faster and safer production of the influenza  
16 vaccine. For example, one manufacturer is testing a  
17 process that relies on cell lines from silk moths, a  
18 technique that promises to shave the production  
19 time by at least a month and reduce the costs sig-  
20 nificantly.

21 (b) SENSE OF THE SENATE.—It is the sense of the  
22 Senate that it is prudent to allocate a greater percentage  
23 of the amounts appropriated to the National Institutes of  
24 Health for research to the development of new tech-  
25 nologies for the production of influenza vaccines.

